

## DETAILED ACTION

### *Formal Matters*

Claims 2-4, 17, 18, 20, 21, 28-30 and 36-39 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 24, 25 and 27, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on December 28, 2009 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

## EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided

by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Randolph Digges on November 2, 2010 and November 4, 2010.

The application has been amended as follows:

#### **IN THE SPECIFICATION**

The title of the application at lines 1-3 has been replaced with the following:

--- ANTIBODY FOR DIAGNOSING NEUROPSYCHIATRIC DISEASES, IN PARTICULAR SCHIZOPHRENIA, DEPRESSION, AND BIPOLAR AFFECTIVE DISORDER ---

Please insert the following paragraph at page 1 after the title of the application and before "BACKGROUND OF THE INVENTION" at line 5:

This application is a national stage filing pursuant to 35 U.S.C. 371 of PCT/EP05/01371, having an International filing date of February 11, 2005 and claiming the benefit of priority from the German patent application DE 10 2004 007 462.3, filed February 13, 2004, all of which are incorporated by reference. The present application claims the benefit of these prior applications, including the right to priority.

#### **IN THE CLAIMS**

Claim 2 has been rewritten as the following:

The monoclonal antibody according to claim 36, wherein the monoclonal antibody recognizes misfolded proteins that are associated with schizophrenia.

Claim 3 has been rewritten as the following:

The monoclonal antibody according to claim 36, wherein the monoclonal antibody recognizes misfolded proteins that are associated with depression.

Claim 4 has been rewritten as the following:

The monoclonal antibody according to claim 36, wherein the monoclonal antibody recognizes misfolded proteins that are associated with bipolar affective disorder.

In claim 24, lines 5-6, the phrase "binds to misfolded proteins that are specific to" has been deleted and the phrase --- recognizes misfolded proteins that are associated with --- has been inserted therefor.

Claim 27 has been canceled.

Claim 37 has been rewritten as the following:

A binding fragment of a monoclonal antibody produced from the hybridoma cell line deposited as DSM ACC2714 (mAB 9C9), wherein said binding fragment recognizes

misfolded proteins that are associated with neuropsychiatric diseases selected from the group consisting of schizophrenia, depression and bipolar affective disorder.

### ***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance: the amendments to the claims were made in order to clarify the scope of the claimed subject matter and to correct typographical errors.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Advisory Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Ballard whose telephone number is 571-272-2150. The examiner can normally be reached on Monday-Friday 8:30 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Stucker can be reached on 571-272-0911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kimberly Ballard  
Art Unit 1649

/Daniel E Kolker/  
Primary Examiner, Art Unit 1649  
November 4, 2010